

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 954 of 1996

in

SPECIAL CIVIL APPLICATION No 1407 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and

MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAJENDRA OCCHAVLAL SHAH

Versus

BARODA MUNICIPAL CORPORATION

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Appearance:

MRS DT SHAH for Appellant

MR PRANAV G DESAI for Respondent No. 1

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CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE A.L.DAVE

Date of decision: 12/02/98

ORAL JUDGEMENT (PER C.K.THAKKER J.)

Admitted. Mr.P.G.Desai, appears and waives service of notice of admission on behalf of respondent nos. 1,2 and 3. Learned counsel for the appellant prays to delete respondent Nos.4 and 5 as according to her appellant does not claim any relief against them and that both of them have now retired. Permission granted. In the facts and circumstances of the case the matter is taken up for final hearing.

This appeal is filed against the judgment and order passed by the learned Single Judge dismissing Special Civil Application No. 1407/86 on July 27, 1996. The petition was dismissed on merits observing that "none appears". Misc.Civil Application No. 1483 of 1996 was filed by the petitioner, which was also rejected by the order dt. August 20, 1996. In the facts and circumstances of the case when the main matter was decided in absence of the parties as well as their advocates, in our opinion ends of justice would be met, if the order passed in the main matter i.e. Special Civil Application No. 1407/86 as well as MCA No.1483 of 1996 are set aside and a direction is issued to the office to place the main matter i.e. Spl.C.A.No.1407 of 1986 before appropriate court to decide the same in accordance with law.

In the result this Letters Patent Appeal is allowed. The order passed in Spl.C.A.No.1407 of 1986 and MCA No.1483 of 1996 are hereby set aside. The learned Single Judge will now decide Special Civil Application No.1407 of 1986 on its own merits. We may state that we are not observing anything on merits and as and when the matter is taken up for hearing, the learned Single Judge will decide the same without being influenced of any manner observations made in this order as well as in order passed by he learned Single Judge. LPA is allowed with no order as to costs.

Dt. 12.2.1998. (C.K.THAKKER J)

(A.L.DAVE J.)

GHB/OK/T